GOVERNMENT OF INDIA
TRIBAL AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:3946
ANSWERED ON:27.03.2017
Violation of Tribal Right in FDI
Adhikari Shri Sisir Kumar

Will the Minister of TRIBAL AFFAIRS be pleased to state:

(a) Whether many cases of investment on industries and the bilateral MoU agreements in the country, between the Government and private investors are against the United Nations Declaration on the Rights of Indigenous People (UNDRIP) Act, 2007 and if so, the details thereof along with the number of such cases reported in the country, State/UT-wise;

(b) If so, whether the Government did not have reports on the violation of the tribal protection before signing the MoU and if so, the details thereof; and

(c) the compensation claims submitted along with the details of compensation received by the investors so far under Bilateral Investment Treaty (BIT) ?

Answer

MINISTER OF STATE IN THE MINISTRY OF TRIBAL AFFAIRS
(SHRI JASWANTSINH BHABHOR)

(a) to (c) : The downside of many development projects is the displacement of people, including the tribals because such projects mostly involve land acquisition.

In so far as land related issues are concerned, the Ministry of Rural Development, Department of Land Resources (DoLR), is the nodal Ministry at the Centre, which plays a monitoring role in the field of rehabilitation and resettlement of displaced people. Land and its management fall under the exclusive legislative and administrative jurisdiction of States as provided under the Constitution of India (Seventh Schedule − List II (State List) − Entry No. (18). Therefore, State-wise details are not maintained centrally. DoLR is responsible for collecting data regarding land acquisition and displacement covering ST families also.Further, the Ministry of Water Resources, River Development and Ganga Rejuvenation is the nodal Ministry for implementing irrigation and Water Resources Projects in the country. National Monitoring Committee Constituted under Sec.48 of 'Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act,2013' has taken up the work of compilation of information regarding and acquisition and displacement.

Whereas Memoranda of Undertakings (MoUs) act as documents of intent and are entered upon before embarking upon a project, they are subject to the scrutiny of the laws of land before actual implementation. Hence, their actual implementation is contingent upon the requisite mandatory clearances being obtained by the project proponent(s).

To ensure adequate compensation and timely and proper rehabilitation of such displaced tribal people across the country, the Government has made special provisions in the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act 2013". As per the Act, as far as possible, no land is to be acquired in the scheduled area except as last resort. In case acquisition or alienation of any land in the Scheduled Areas, the prior consent of Gram Sabha or the Panchayat or the Autonomous District Councils, at the appropriate level in the Scheduled Area in the Fifth Schedule to the Constitution, as the case may be, are required to be obtained, in all cases of land acquisition in such areas, including acquisition in case of urgency. The Act also lays down procedure and manner of rehabilitation and resettlement (R&R) wherein R&R is an integral part of the land acquisition plan itself. Chapters-V and VI of the said Act contains detailed provision for R&R awards and their implementation. National Monitoring Committee also reviews and monitors the implementation of R&R schemes and looks into issue related to displacement of people and timely payment of compensation.

Furthermore, Section 4(5) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that "Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete."

Provisions also exist in the Panchayats (Extension to the Scheduled Areas) Act, 1996; the Minerasls (Auction) Rules, 2015 and Mineral (Other than Atomic and Hydro Carbon Energy Minerals) (OTAHCEM) Concession Rules, 2016 which safeguard the interests of the tribals and persons who become displaced because of the taking up of mining operations.

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